IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1629 of 2004

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA

AND

HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether Their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any Order made thereunder?

5 Whether it is to be circulated to the Civil Judge?

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VIJAYA MEGHJI JUNGI
W/O LATE MEGHJI NATHA JUNGI - Petitioner
Versus
UNION OF INDIA AND OTHERS - Respondents

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Appearance :
MR ANAND L SHARMA for the Petitioners.
RULE SERVED for Respondents : 1 - 2.
SERVED BY RPAD - (R) for Respondents : 2 - 3.
MS PJ DAVAWALA for Respondent : 2.

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 16/11/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. Shri Meghji Natha Jungi, while on duty died on 07-07-1978, leaving behind him his second wife - present petitioner and four children. On his death, his widow - present petitioner applied for compassionate appointment on 07-03-1979 but her request was rejected way back in April 1980. Thereafter, after a period of 9 years i.e. in October 1989, she once again made a reqeust, which was also turned down. Thereupon, she approached this Court by way of Writ Petition i.e. Special Civil Application No. 6977 of 1990, which was disposed of as not maintainable by the learned Single Judge of this Court on 29th September, 2000. However, while disposing of the said petition, the learned Single Judge observed that it will be open to the petitioner to approach the Central Administrative Tribunal. Accordingly, she filed OA No. 225 of 2001 before the Central Administrative Tribunal (for short, *"Tribunal"*). The said application was disposed of by the learned Tribunal by its impugned judgment and order dated 23rd January, 2002, whereby the petitioner was asked to make representation to the authority which was to be considered and decided in accordance with law, and with the observation that it may not be rejected on the ground of limitation. Accordingly, the petitioner made another

representation which was rejected by the authority by an order dated 12th June, 2002. Thereupon, once again, the petitioner approached the learned Tribunal by way of fresh OA No. 399 of 2002 which was rejected by the learned Tribunal on the ground that the husband of the applicant expired way back in 1978 and for a period of more than 24 years, the petitioner was able to maintain her family, thus, therefore, the purpose to provide immediate subsistence to meet her financial crisis on the death of the deceased would not survive. Accordingly, relying upon the Hon'ble Supreme Court's judgments in the case of **Dhalla Ram Vs. Union of India And Others, 1998 SCC (L&S) 112** and **Umesh Kumar Nagpal Vs. State of Haryana, JT 1994 (3) SCC 525,** the learned Tribunal rejected that application. Hence, this petition.

3. Having carefully gone through the impugned judgment and order passed by the learned Tribunal rejecting her application, it cannot be said that the learned Tribunal committed any jurisdictional error. The very purpose of providing immediate appointment on compassionate ground is to see that the family of the deceased may not suffer in harness on the sudden and untimely death of an employee. It is true, in the instant case, that on the death of deceased Meghji, his widow made an application within 8 months of his death, which was rejected in April 1980. Thereafter, she waited for a long period of 9 years and then once again, made a representation which was rejected. At that time, she approached this Court by

way of writ petition which was not maintainable before this Court, therefore, she was relegated to the remedy of application before the learned Tribunal which she availed of. However, at that time, the learned Tribunal rightly passed an order directing her to make a representation and directing the authority to decided the same strictly in accordance with law. Accordingly, the authority took the decision in June 2002. Once the authority was not satisfied, then in peculiar facts of this case, there is no question of interference, more particularly when the learned Tribunal itself has found that there is no case to grant her application for appointment on compassionate ground.

4. In view of the above discussion, this petition fails and is hereby rejected. Rule discharged. No costs.

[B. J. SHETHNA, J.]

[H. B. ANTANI, J.]

/shamnath